

REMARKS/ARGUMENTS

Claims 1 through 23 are pending in the instant application. Claims 2 through 9 depend from independent claim 1. Claims 11 through 20 depend from independent claim 10. Claim 21 is independent. Newly added claim 23 depends from newly added independent claim 22.

Applicants state that the new claims 22 and 23 do not raise any new issues that require further consideration and/or search, and simply are added to more particularly and distinctly claim patentable subject matter of the application.

Applicants state that it is not proper for the Examiner to simply not enter this amendment, as no further searching is needed, no new issues are raised by the addition of these claims, or by stating that the new claims do not simplify the issues for appeal.

In the Action, claims 1 through 7, and 9 through 13, 15 through 16, and 18 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,378,225 to Slingo (hereinafter "Slingo"). Applicants respectfully traverse this rejection on the grounds that Slingo neither discloses nor suggests all of the elements set forth in independent claim 1 or independent claim 10.

Claim 1 provides a hair dryer with a primary heater for providing heat to an airflow, and a secondary heater

for selectively providing radiant energy to the airflow as desired.

Slingo discloses a hair dryer having a fan with an electrical heater. The electrical heater is a nickel-chromium heater in an elongated coil that is connected to a power source. (See col. 2, line 27).

The hair dryer also has an electrically non-conductive or pure ceramic radiator, not any second heater. The electrically non-conductive ceramic radiator is a tubular piece of electrically non-conductive ceramic material between an outlet and the fan, (see col. 2, lines 39 through 40).

The electrically non-conductive ceramic radiator is not connected to any power supply and is simply suspended in the elongated coil. (See column 2, lines 39 through 47). The electrical heater heats the air and the heated air heats the electrically non-conductive ceramic material, and then the heated air is blown out of the hair dryer. (See col. 2, lines 44 through 46).

Slingo does not disclose or suggest any a hair dryer with a primary heater for providing heat to an airflow, and a secondary heater for selectively providing radiant energy to the airflow as desired.

The electrical heater in Slingo heats the air AND the electrically non-conductive ceramic, and the electrically non-conductive ceramic is not connected to any power

supply. Instead, the heated air from the electrical heater is blown out of the hair dryer.

Slingo does not disclose any other secondary heater. In the comments section at page 4 of the office action, the Examiner states that the second heater is inherently anticipated and "the disclosed ceramic . . . inherently anticipates the intended use for selectively providing radiant energy to the air flow as desired because the electric heater heats the ceramic radiator".

The Examiner is completely erroneous because the pure ceramic material cannot conduct electricity and could not selectively provide radiant energy as claimed.

In response applicants state that inherent anticipation as disclosed in Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 20 U.S.P.Q.2d (BNA) 1746 (Fed. Cir. 1991) requires that the undisclosed characteristic of the prior art must be a technological fact of the device that flows naturally as a consequence of its structural limitations. If, not and if that characteristic is not present then there is no inherent anticipation.

Slingo does not expressly or inherently disclose any secondary heater, let alone any such structure that may have the selective radiant effect of the secondary heater that would flow from its structure.

Moreover, Slingo does not disclose any ceramic structure that is connected to a power source. Slingo

simply discloses that infrared rays are preferred as "a bio-ceramic" material that has biological and physiological effects when heated air is blown over them. (See col. 1, lines 24 through 25).

The Examiner is simply relying on the fact that when heated air is blown on the ceramic radiator, the ceramic radiator is heated by the heated air. This is not the same as the applicant's claim 1.

The electrically non-conductive ceramic radiator simply does not generate any heat and cannot conduct electricity, nor has any benefits of such a secondary heater as claimed in claim 1.

Moreover, if the electrically non-conductive ceramic radiator was connected to a power supply, the ceramic radiator could NOT conduct heat or electricity and simply could not function as claimed, let alone provide the benefits as claimed, or have any effects that flows naturally as a consequence of its structure that is required for an inherency argument.

The Examiner is using impermissible hindsight reconstruction not only to add the secondary heater, but to add the electrically conductive material to the pure ceramic of the Slingo reference. The Examiner is also improperly adding missing effects of such a secondary heater to anticipate the claim under an inherent anticipation argument.

Applicants state that if an electric current was connected to the electrically non-conductive ceramic radiator of Slingo, the Slingo electrically non-conductive ceramic radiator would not and could not conduct any heat or electricity, and applicants will provide a declaration by the inventor to this effect, if needed.

Thus, reconsideration and withdrawal of the rejection of claim 1 are respectfully requested. Claims 2 through 7, and 9 depend from claim 1 and reconsideration and withdrawal of the rejection of these claims are also respectfully requested.

Claim 10 discloses a hair styling appliance with a primary heating source and a secondary heating source with a control interface. The control interface allows an operator to control a heating effect of the primary heating source and/or the secondary heating source.

Slingo does not disclose or suggest any secondary heating source, let alone any control interface that may control the heating effect of the primary and/or the secondary heating source. Slingo discloses one nickel-chromium electrical heater in an elongated coil that is connected to the power source.

The electrical heater heats the air and the electrically non-conductive ceramic material that is not connected to any power supply, and the heated air is blown out of the hair dryer. Reconsideration and withdrawal of the rejection of claim 10 are respectfully requested. Claims 11 through 13, 15 through 16 and 18 depend from

claim 10 and are patentable for at least the reasons discussed above for independent claim 10. Reconsideration and withdrawal of the rejection of claims 11 through 13, 15, 16, and 18 are respectfully requested.

Claims 8, and 14, and 19 through 20 were rejected under 35 U.S.C. § 103(a) as being obvious over Slingo in view of U.S. Patent No. 5,790,749 to Polaert (hereinafter "Polaert"). Applicants submit that the cited and relied upon Slingo and Polaert simply do not support a prima facie rejection of obviousness under 35 U.S.C. § 103(a). There is no disclosure, suggestion or motivation in either reference for the modification argued by the Office, and Slingo, Polaert, and the combination thereof, even if technically feasible, which is not admitted as possible, do not render applicants' claimed invention obvious.

Claim 8 depends from claim 1, and provides for a hair dryer with a primary heater for providing heat to an airflow, and a secondary heater for selectively providing radiant energy to the airflow as desired with the secondary heater being self-regulating.

Slingo discloses a hair dryer with a fan and one electrical heater that is a nickel-chromium heater. The electrical heater is formed in an elongated coil that is connected to a power source. Slingo further discloses an electrically non-conductive ceramic radiator. The electrical heater heats the air, and the air heats the electrically non-conductive ceramic material, and then the heated air is blown out of an outlet.

Polaert discloses a hair dryer with an air heater. (See col. 2, line 40 through 41). The hair dryer also has a detector and a controller. The detector detects a heating condition of the air escaping the hair dryer and the controller regulates the air heater and/or fan in response to the condition detected by the detector.

Polaert discloses at col. 3, lines 6 through 10, that the controller will change a setting of the air heater so at a first time a strong drying occurs and at a second time thereafter a more moderate drying occurs. The hair dryer at a first time will have a first air flow of twelve meters per second and a first temperature of seventy five degrees Celsius and at a second time will have a second air flow of six meters per second and a second temperature of forty-five degrees Celsius. (See col. 3, lines 30 through 36). Other air flow and heat combinations are further disclosed.

A flaw in the Examiner's logic is that the ceramic material cannot be modulated at all, let alone as claimed because it is a pure ceramic or non-conductive and simply cannot conduct electricity.

Slingo, Polaert and the combination thereof do not disclose or suggest any secondary heater for selectively providing radiant energy to the airflow as desired, let alone with the secondary heater being self-regulating. Moreover, Slingo is simply not combinable with Polaert because the ceramic material disclosed in the radiator of Slingo cannot conduct electricity. Reconsideration and withdrawal of patentable claim 8 are respectfully requested.

Slingo, Polaert and the combination thereof fail to disclose or suggest any hair styling appliance with a primary heating source and a secondary heating source and a control interface for controlling a heating effect of the primary heating source and/or secondary heating source as claimed in claim 10. Reconsideration and withdrawal of the rejection of claim 10 are respectfully requested. Reconsideration and withdrawal of the rejection of claims 14, and 19 through 20 are also respectfully requested as these claims depend from patentable claim 10.

In the Action, claim 17 was rejected under 35 U.S.C. § 103(a) as being obvious over Slingo in view of Polaert further in view of United States Published Patent Application No.: 2002/0006275 to Pollack (hereinafter "Pollack"). The cited and relied upon Slingo, Polaert and Pollack do not support a prima facie rejection of obviousness under 35 U.S.C. § 103(a). Slingo, and Polaert alone or in combination with Pollack neither disclose nor suggest applicants' claimed invention as claimed in claim 17. There is no disclosure, suggestion or motivation in any reference for the modification argued by the Office, and Slingo, Polaert, Pollack and the combination thereof, even if technically feasible, which is not admitted as possible, do not render applicants' claimed invention obvious as claimed in claim 17.

Claim 17 discloses a hair styling appliance with a primary heating source and a secondary heating source and a control interface for allowing an operator to control a

heating effect of the primary heating source and/or the secondary heating source.

The hair styling appliance also has the secondary heating source centrally positioned at a second end of the hair styling appliance with the second end having an air egress. The hair styling appliance further has the primary heating source initially heating the airflow, and the secondary heating source selectively providing radiant energy thereto at the air egress.

Pollack discloses an air dryer for drying an infant's bottom such as during infant care. The air dryer has a housing that has a tube and a fan in the housing. The tube is generally cylindrical and has an air outlet and a second vent. The second vent permits the air to escape the tube in the event that the air outlet is blocked so as to prevent any overheating of the fan and so there is a reduced chance of chafing the sensitive skin of the infant.

Slingo, Polaert, Pollack and the combination thereof do not disclose or suggest any hair styling appliance with a primary heating source and a secondary heating source and a control interface for allowing an operator to control a heating effect of the primary heating source and/or the secondary heating source.

Slingo, Polaert, Pollack and the combination thereof also do not disclose or suggest any secondary heating source, let alone one centrally positioned at a second end of the hair styling appliance with the second end having an air egress, let alone any primary hearing source initially

heating the airflow, and the secondary heating source selectively providing radiant energy thereto at the air egress.

Furthermore, applicants contend that Pollack is improperly cited for combining with the primary reference and moreover, Pollack teaches away from combining with the primary reference. Although, applicants address this in the prior amendment, the Examiner did not respond to the argument or provide any rebuttal to the teaching away of the two references.

Specifically, Pollack discloses at paragraph 22 of the specification that, "because the dryer is intended for use with infants, it is preferred that only room temperature or slightly heated air be blown through the outlet duct. Therefore, unlike a hair dryer, the dryer does not include high-powered electric heaters. In one embodiment, the dryer includes no heating devices."

Moreover, the pure ceramic material cannot conduct electricity and would not function, let alone be selectively providing radiant energy. It is improper for the Examiner to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983). Claim 17 is patentable over the cited and relied upon references and reconsideration and withdrawal of the rejection of claim 17 are respectfully requested.

Claim 21 was rejected under 35 U.S.C. § 102(b) as being anticipated by a newly cited reference United States

Patent No. 4,757,183 to Karey (hereinafter "Karey").
Applicants respectfully traverse this rejection on the grounds that Karey neither discloses nor suggests all of the elements set forth in independent claim 21.

Claim 21 provides for a hair styling appliance with a primary heating source and a second heating source with the secondary heating source being a positive temperature coefficient heater with a doped ceramic with the positive temperature coefficient heater being connected to the power source.

Karey discloses a portable hand held hair dryer with a heat accumulator. The heat accumulator is a ceramic material having a number of channels. The heated air is disposed through the channels and exits at a uniform temperature.

Karey does not disclose any doped ceramic material, let alone any secondary heating source being a positive temperature coefficient heater with the doped ceramic with the positive temperature coefficient heater being connected to the power source.

Applicants state if the ceramic of Karey was connected to a power supply, there the ceramic could NOT conduct electricity and would not function, let alone as claimed. In fact, Karey provides for an additional conductor on the duct because of this fact. Reconsideration and withdrawal of the rejection of claim 21 are respectfully requested.

Applicants further request that the Examiner withdraw the finality of the Office Action, as the Karey reference was not cited in any earlier Office Action.

Claim 22 is patentable over all of the cited and relied upon references as none of the references disclose or suggest any doped ceramic material, let alone any secondary heater for selectively providing radiant energy to an airflow as desired, with the secondary heater generating an amount of heat exclusive from the primary heater.

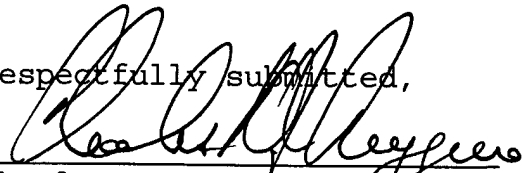
None of the references disclose or suggest any secondary heater having a doped ceramic material for providing an electrical conductivity property to the ceramic in the secondary heater when the doped ceramic material is connected to a power supply. Claim 23 is also patentable for at least the reasons discussed above for claim 22.

It is applicants' belief that claims 1 through 23 are all patentable and in condition for allowance. Accordingly, applicants respectfully request favorable consideration and that the application be passed to allowance.

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Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Charles N.J. Ruggiero", is written over a horizontal line.

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